

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION**

IN RE:)	
)	
ANGIE KNIGHT SHEAVES,)	CASE NO. 19-50469
)	
Debtor.)	
)	

**MOTION TO AVOID JUDICIAL LIEN OF PORTFOLIO RECOVERY ASSOCIATES,
LLC**

The above captioned debtor (“Debtor”) moves for an order pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 avoiding the judicial lien held by Portfolio Recovery Associates, LLC (“Respondent”) and in support of this motion states:

1. The Debtor filed a voluntary petition under Chapter 13 of the Bankruptcy Code on May 7, 2019 (“Petition Date”).
2. Respondent holds a judicial lien which impairs an exemption that has been claimed by the Debtor in the following property: 3567 Valiant Ave. SW, Concord, NC (“Property”).
3. The total value of the Property as of the Petition Date is \$220,910.00, which value is based upon tax value.
4. Respondent’s judicial lien (“Respondent’s Judicial Lien”) is in the amount of \$2,269.18, not including attorney’s fees, costs and interest as of the Petition Date, and is based upon a judgment or transcript of judgment that was recorded in the office of the Clerk of Superior Court of Cabarrus County on June 19, 2014 and is identified as file number 14CVD731. A copy of such judgment or transcript of judgment is attached hereto as **Exhibit A**.
5. In addition to Respondent’s Judicial Lien, the Property is subject to the following liens listed in the order of their priority:

Holder/Owner of Lien	Date of Recordation	Recording Information	Amount of Lien as of Petition Date
Us Bank Trust, NA as Trustee for LSF9 Master c/o Caliber Homes Loans	11/30/2007	Book 7939 Page 122	\$216,362.86
GlenGrove Homeowners Association., Inc	1/11/2018	18M126	\$3,118.82

The total amount of liens on the Property listed in the above table is \$219,481.68.

6. The Debtor claims an exemption in the Property, or is in conjunction herewith submitting an amended exemption list on Form 91C pursuant to Federal Rule of Bankruptcy Procedure 1009(a) that claims an exemption in the Property pursuant to *N.C.G.S. § 1C-1601(a) (1-9)* which would allow Debtor to exempt up to \$34,651.49 of equity in the Property if there were no liens on the Property.

7. The value of the Debtor's ownership interest in the Property if there were no liens on the Property is \$220,910.00 as of the Petition Date.

8. Respondent's Judicial Lien impairs the Debtor's exemption in the Property following the formula set forth in 11 U.S.C. § 522(f)(2):

A	Amount of Respondent's Judicial Lien		\$2,269.18
B	Total amount of all other liens on the Property	+	\$219,481.68
C	Amount of Debtor's exemption if there were no liens on the Property	+	\$34,651.49
D	Value of the Debtor's interest in the Property if there were no liens on the Property	-	\$220,910.00
E	Extent of impairment of Debtor's exemption in the Property		\$35,492.35

9. The total aggregate of all liens on the Property and the value of Debtor's exemption exceeds the value of Debtor's interest in the Property by an amount equal to or greater than the amount of Respondent's Judicial Lien. Respondent's Judicial Lien fully impairs Debtor's exemption; therefore, Respondent's Judicial Lien may be completely avoided pursuant to 11 U.S.C. § 522(f)(1).

10. The undersigned seeks an additional attorney fee of \$400.00 for the prosecution of this motion.

WHEREFORE, the Debtor respectfully requests the Court enter an order avoiding Respondent's Judicial Lien to the extent sought in this motion and granting such other and further relief as is fair and equitable.

This the 6th day of April 2020.

/s/Kristen Nardone

Kristen S. Nardone

Attorney for Debtor

NC State Bar No 28063

OF COUNSEL:

Nardone Law Firm

P.O. Box 1394

Concord, NC 28026

(704)784-9440

CERTIFICATE OF SERVICE

The undersigned certifies that on the below date a copy of the Motion to Avoid Judicial Lien was served on the following individuals electronically, when applicable, or by depositing the same in a prepaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service, addressed as follows:

William P. Miller
Bankruptcy Administrator

Kathryn L. Bringle
Chapter 13 Trustee

Angie Sheaves
3567 Valiant Ave. SW
Concord, NC 28027

Portfolio Recovery Associates, LLC
PO Box 41067
Norfolk, VA 23541

Corporation Service Company
Attn: Registered Agent
130 Corporate Blvd.
Norfolk, VA 23502-4952

Portfolio Recovery Associates, LLC
Attn: Officer of Managing Agent
120 Corporate Blvd., Suite 100
Norfolk, VA 23502

This the 6th day of April 2020.

/s/ Kristen S. Nardone
KRISTEN S. NARDONE
Attorney for Debtor
NC State Bar No. 28063

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

14 CvD 731

FILED IN COURTROOM
CABARRUS COUNTY
DATE: 6-19-14 10:25
BY: [Signature]
Asst/Deputy Clerk

PORTFOLIO RECOVERY ASSOCIATES, LLC,)

Plaintiff)

vs.)

ANGIE SHEAVES,)

Defendant)

ORDER GRANTING

JUDGMENT ON THE PLEADINGS

[JOPL]

JMT 1

THIS CAUSE came on to be heard before the undersigned Judge of the District Court for Cabarrus County, North Carolina, upon the Plaintiff's Motion for Judgment on the Pleadings, pursuant to the provisions of G.S. § 1A-1, Rule 12(c); and,

IT APPEARED TO THE COURT that there is no issue as to any material fact, and that the Plaintiff is entitled to judgment as a matter of law.

IT IS NOW, THEREFORE, ORDERED, ADJUDGED AND DECREED, pursuant to provisions of G.S. § 1A-1, Rule 12(c), that Judgment on the Pleadings be, and the same is hereby granted, in favor of the Plaintiff and against the Defendant, as follows:

1. That the Plaintiff have and recover from the Defendant the principal sum of \$2,269.18.

2. That the Plaintiff further have and recover from the Defendant no interest whatsoever.

3. That the Plaintiff further have and recover from said Defendant all costs of this action.

This the 19 day of June, 2014.

A TRUE COPY
CLERK OF SUPERIOR COURT
CABARRUS COUNTY

BY [Signature]
Asst/Deputy Clerk

[Signature]
District Court Judge

[Handwritten mark]